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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,297	07/10/2003	David Brault	84215-302 ADB	1603
23529	7590	01/24/2005	EXAMINER	
ADE & COMPANY 1700-360 MAIN STREET WINNIPEG, MB R3C3Z3 CANADA			GELLNER, JEFFREY L	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 01/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/616,297	BRAULT ET AL.
	Examiner	Art Unit
	Jeffrey L. Gellner	3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 November 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,4,5 and 7-12 is/are rejected.  
 7) Claim(s) 2,3 and 6 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Invention I (claims 1-12) in the reply filed on 15 November 2004 is acknowledged. The traversal is on the ground(s) that the different uses for the subcombinations are completely unreasonable (Remarks page 5 3<sup>rd</sup> para.). This is not found persuasive because under MPEP 806.05(d) the subcombinations must be disclosed as usable together and yet have separate usability. The examiner must supply an example of use which is not unreasonable. Here, the subcombinations are shown usable together in the drawings and the Examiner considers the different uses as reasonable because the structures could be used for the stated purposes, even if not probable

The requirement is still deemed proper and is therefore made FINAL. Claims 13-23, drawn to nonelected inventions, have been cancelled.

### ***Specification***

The disclosure is objected to because of the following informality:

On page 31, line 8, after detail it appears a reference to a figure is absent. Perhaps, the sentence should end as --in more detail shown in Figure 11.--

In addition, Figs. 12 to 14 should be referenced in the "DETAILED DESCRIPTION" section.

Appropriate correction is required.

***Claim Objections***

Claims 1-4, 6, and 11 are objected to because of the following informalities:

In claim 1, line 13, “light fixture” should be --of the plurality of lighting fixtures-- to conform with the language of claim 1, line 12.

In claim 2, line 1, “the bulb support” should be --the lighting bulb support-- to conform with the language of claim 1, line 18.

In claim 2, line 2, “parabolic reflector” should be --the generally parabolic reflector-- to conform with the language of claim 1, line 15.

In claim 3, line 2, “the bulb support” should be --the lighting bulb support-- to conform with the language of claim 1, line 18.

In claim 3, lines 1-2, “parabolic reflector” should be --the generally parabolic reflector-- to conform with the language of claim 1, line 15.

In claim 3, line 2, “the plane” should be --the axial plane-- to conform with the language of claim 2, line 2.

In claim 4, lines 1-2, “parabolic reflector” should be --the generally parabolic reflector-- to conform with the language of claim 1, line 15.

In claim 4, lines 2-3, “the axial plane” should be --an axial plane.”

In claim 6, line 1, “parabolic reflector” should be --the generally parabolic reflector-- to conform with the language of claim 1, line 15.

In claim 6, line 1, “the plane” should be --a plane-- or --an axial plane-- with language directed to the axis claimed.

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In claim 11, line 1, "light fixture" should be --of the plurality of lighting fixtures-- to conform with the language of claim 1, line 12.

Appropriate correction is required.

***Claim Rejections - 35 USC §103***

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 5, 7, and 8 are rejected under 35 U.S.C. §103(a) as being unpatentable over Armstrong (US 3,882,306) in view of Fogg et al. (US 4,163,342).

As to Claim 1, Armstrong discloses a greenhouse (col. 1 line 5) comprising an exterior wall structure with sides and endwalls (inherent in greenhouses) made of primarily transparent panels (inherent in greenhouses) with a rail (65 of Fig. 1) with a plurality of lighting fixtures (61 of Fig. 1) along the rail; each lighting fixture comprising a mounting member (13 and 19 of Figs. 2 and 3) for attachment to the rail; a generally parabolic reflector (47 of Figs. 2-4) carried on the mounting member; a lighting bulb support (col. 3 lines 16-19); wherein the mounting member of each lighting fixture is pivotal about the axis generally parallel to a parabolic axis (13 of Figs. 3 and 4) of the parabolic reflector relative to the parabolic reflector and the bulb so as to adjust the angle of the directed light relative to the rail; and wherein the lighting is adjusted downward (Figs. 1-4) and inward the sidewalls (inherent when adjusted). Not disclosed is a plurality of rails arranged in parallel spaced positions. Fogg et al., however, discloses a plurality of rails

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arranged in parallel spaced positions (shown in Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the greenhouse of Armstrong by having a plurality of rails as disclosed by Fogg et al. so as to have sufficient lighting the a large, economically-sized greenhouse.

As to Claim 4, Armstrong as modified by Fogg et al. further disclose the generally parabolic reflector having a parabolic shape (Figs. 2-4 of Armstrong) and with a recessed notch at an axial plane (region created by 33 in Fig. 2 of Armstrong).

As to Claim 5, Armstrong as modified by Fogg et al. further disclose the recessed notch being v-shaped (33 of Fig. 4 in that any two of the 33s will from a "v").

As to Claim 7, not disclosed is an endwall with a plurality of posts and beams. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the greenhouse of Armstrong as modified by Fogg et al. by having the endwall with a plurality of posts and beams as a known construction design for greenhouses to provide structural integrity.

As to Claim 8, Armstrong as modified by Fogg et al. further disclose the rails with a common height (see Fogg et al.).

Claims 9-12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Armstrong (US 3,882,306) in view of Fogg et al. (US 4,163,342) in further view of Baker et al. (US 6,312,139 B1).

As to Claim 9, the limitations of Claim 8 are disclosed as described above. Not disclosed are the rail heights adjustable. Baker et al., however, discloses a greenhouse with adjustable rails (abstract). It would have been obvious to one of ordinary skill in the art at the time of the

invention to further modify the greenhouse of Armstrong as modified by Fogg et al. by having adjustable rails as disclosed by Baker et al. so as to increase light to the plants to speed plant growth.

As to Claim 10, Armstrong as modified by Fogg et al. and Baker et al. further disclose a spacing of 5 feet (from Baker et al.) depending upon the needs of the plants.

As to Claim 11, Armstrong as modified by Fogg et al. and Baker et al. further disclose each of the ballasts associated in at least one cabinet mounted separately (36 of Fig. 1).

As to Claim 12, Armstrong as modified by Fogg et al. and Baker et al. further disclose the exterior wall made of a plurality of posts (well known greenhouse construction) and the at least one cabinet mounted on the wall (well known in greenhouse construction to mount cabinets on the wall of greenhouses).

### ***Allowable Subject Matter***

Claims 2, 3, and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chelf, Barcel, Henderson Jr. et al., Schwarzmayr, de Vos et al., Burn et al., Hsieh, Kotloff, and Lassovsky disclose in the prior art various lighting systems capable of use in greenhouses.

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.



Jeffrey L. Gellner  
Primary Examiner